UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,402	05/08/2001	Joe F. Britt JR.	14531.5.1.5	1907

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EXAMINER
SAX, STEVEN PAUL

ART UNIT	PAPER NUMBER
2174	

DATE MAILED: 03/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/851,402	BRITT ET AL.
	Examiner	Art Unit	
	Steven P Sax	2174	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>07 September 2004</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-29</u> is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-29</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☐ All   b)☐ Some * c)☐ None of:

       1.☐ Certified copies of the priority documents have been received.

       2.☐ Certified copies of the priority documents have been received in Application No. _____.

       3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
     Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   This application has been examined. The amendment filed 9/7/04 has

been entered.

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

3.   Claims 1-7, 11-17, 19-29 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Kalluri et al (5937331) and Chess et al (5802592).

4.   Regarding claim 1, Kalluri et al show a client system with computer and

program instructions communicating with a server (Abstract, Figure 1, column 2 lines

25-40), a method of restoring a corrupted portion of program instructions at the client

(column 5 lines 25-45) including: checking the validity of system program instructions

and application program instructions at the client to determine if a corrupted portion

exists (column 6 lines 18-47), and if determined that either have a corrupted portion,

connecting the client to the server (column 5 lines 30-45, column 6 lines 20-50, column

9 lines 20-40), receiving replacement instructions from the server and replacing the

corrupted portion with the replacement instructions (column 9 lines 25-55). Kalluri et al

do not go into the specific details of the instructions being in an actual program which is

replaced per se, but do show correction of instructions with programs (column 8 lines

52-67). Furthermore, Chess et al show replacing an actual program if it is corrupted, to

correct instructions (column 3 lines 30-50). It would have been obvious to a person with

ordinary skill in the art to have an actual program replaced in Kalluri et al, because it

would be an efficient way to correct instructions.

5.   Regarding claim 2, validity check uses a checksum technique (Kalluri et al

Figure 4, column 7 lines 10-20).

6.   Regarding claim 3, the act of connecting the client to the server includes

selecting a local connection script associated with the server (Kalluri et al column 7 lines

20-40).

7.   Regarding claim 4, a default connection script is read from the memory of

the client to connect to a remote computer and the selected local script is downloaded

(Kalluri et al column 7 lines 25-60).

8.   Regarding claim 5, the replacement instructions are automatically (without

user intervention) requested after connecting to the server, and received (Kalluri et al

column 9 lines 20-49).

9.   Regarding claim 6, the replacement instructions are received through a satellite link (Kalluri et al column 5 lines 5-25).

10.   Regarding claim 7, the replacement instructions are written to a random access memory, decompressed, and written to a flash memory of the client (Kalluri et al column 7 lines 20-49).

11.   Regarding claim 11, validity is checked during initialization (Kalluri et al column 6 lines 18-47).

12.   Claims 12-13 show the same features as claims 1-2 respectively and are rejected for the same reasons.

13.   Claim 14 shows the same features as claim 7 and is rejected for the same reasons.

14.   Regarding claim 15, an example of this is checking validity upon an initialization sequence, and thus this is rejected for the same reasons as claim 12.

15.   Claims 16-17 are rejected for the same reasons as claims 1-2. In addition, note that the portion being represented as a block is inherent.

16.   Claims 19-20 are rejected for the same reasons as claims 6-7.

17.   Claim 21 shows the same features as claim 6 and is rejected for the same

reasons.

18.   Regarding claim 22, checking validity comprises identifying specific

addresses associated with the identified corrupted blocks (Kalluri et al column 6 lines

25-50).

19.   Claim 23 is rejected for the same reasons as claim 7.

20.   Claim 24 is rejected for the same reasons as claim 5.

21.   Claims 25-26 are rejected for the same reasons as clams 16-17.

22.   Claim 27 is rejected for the same reasons as claim 23 (and claim 7).

23.   Claim 28 is rejected for the same reasons as claim 15.

24.   Claim 29 is rejected for the same reasons as claim 22.

25.   Claims 8-9 and 18 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Kalluri et al (5937331) and Chess et al (5802592) and Reed et al

(5903732).

26.   Regarding claim 8, neither Kalluri et al nor Chess et al show specifically

the instructions received over the Internet, but Kalluri et al do show receiving over a

network. Furthermore, Reed et al show receiving validity instructions over the Internet

as a useful network (column 6 lines 1-30). It would have been obvious to a person with

ordinary skill in the art to have Kalluri et al use the Internet, because it would provide a

useful Internet from which to receive the instructions.

27.   Regarding claim 9, neither Kalluri et al nor Chess et al specifically mention

the browser having the corrupted portion, but Kalluri et al do show the application

program at the client for receiving the data for presentation (column 5 lines 40-55).

Furthermore, Reed et al do show the browser for presenting data at the client (column 4

lines 40-55). It would have been obvious to a person with ordinary skill in the art to

have this in Kalluri et, because it would provide a convenient application to present data

at the client.

28.   Claim 18 is rejected for the same reasons as claim 8.

29.   Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Kalluri et al (5937331) and Chess et al (5802592) and Fowlow (6260078).

30.   Regarding claim 10, Kalluri et al and Chess et al do not specifically show

the Java applet, but it is common in the art to use Java applets to transmit instructions

over a network (see for example Fowlow column 3 lines 25-60). Kalluri et al shows

transmitting instructions over the network. It would have been obvious to a person with

ordinary skill in the art to use Java applets in the invention of Reed et al, because it

would be an efficient way to transmit instructions over the network.

31.   Applicant's arguments with respect to the claims have been considered

but are moot in view of the new ground(s) of rejection. Note that any Continuity In Part

dating before the 5940074 patent does not contain the relevant matter pertaining to the

claims in this application.

32.   Applicant's amendment necessitated the new ground(s) of rejection

presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See

MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in

37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

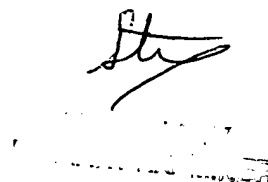TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

33.   Any inquiry concerning this communication or earlier communications from

the examiner should be directed to Steven P Sax whose telephone number is (571)

272-4072. The examiner can normally be reached on Monday thru Friday, 8:30 AM -

5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Kristine Kincaid can be reached on (571) 272-4063. The fax phone number

for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

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